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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO.       |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/804,812  | 03/19/2004  | Gareth Alan Howell   | MS1-1927US                  | 7070                   |
| 22801   | 7590        | 06/17/2008           |                             |                        |
| LEE & HAYES PLLC<br>421 W RIVERSIDE AVENUE SUITE 500<br>SPOKANE, WA 99201 |             |                      | EXAMINER<br>TEKLE, DANIEL T |                        |
|   |             |                      | ART UNIT<br>2621            | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>06/17/2008     | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/804,812

**Applicant(s)**

HOWELL ET AL.

**Examiner**

DANIEL TEKLE

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9 and 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 9 and 27 define a "signal generating by one or more readable media, and data carrier comprising a signal" embodying that same functional descriptive is neither a process nor a product (i.e., a tangible "thing") and therefore does not fall within one of the four statutory of 101. Rather, "signal" is a form of energy, in the absence of any physical structure or tangible material.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 rejected under 35 U.S.C. 102(e) as being anticipated by Dunbar et al. (US 2004/0268397).

**Regarding Claim 1:** Dunbar et al. discloses one or more processor-readable media having processor-executable instructions that, when executed by a processor, performs

acts comprising: obtaining an encoded multimedia segment, the segment having a defined normal decode schedule which designates a normal rate for decoding the multimedia segment (**paragraph 0067**); decoding the multimedia segment at a rate greater than the normal decode schedule (**paragraph 0066**); buffering the decoded multimedia segment produced by the decoding (**paragraph 0089**); rendering and presenting the buffered multimedia segment (**paragraph 0089**).

**Regarding Claim 2:** Dunbar et al. discloses one or more media as recited in claim 1 further comprising transforming the decoded multimedia segment (**paragraph 0071**).

**Regarding Claim 3:** Dunbar et al. discloses one or more media as recited in claim 1 further comprising transforming the decoded multimedia segment by applying a transition from one portion of the multimedia segment to another portion (**paragraph 0071**).

**Regarding Claim 4:** Dunbar et al. discloses one or more media as recited in claim 1 further comprising transforming the decoded multimedia segment by applying a transition, effect, titles, encoding, or decoding to the segment (**paragraph 0071**).

**Regarding Claim 5:** Dunbar et al. discloses one or more media as recited in claim 1 further comprising determining whether to perform the decoding and buffering when spare computing resources are otherwise available concurrent acts comprising the decoding, the buffering, the rendering and the displaying (**Fig. 5**).

**Regarding Claim 6:** Dunbar et al. discloses one or more media as recited in claim 1, wherein the buffering occurs in a video memory (**paragraph 0089**).

**Regarding Claim 7:** Dunbar et al. discloses one or more media as recited in claim 1, wherein one or more of the acts recited in claim 1 are performed concurrent (**paragraph 0053**); performance of each act consumes computing resources (**paragraph 0053**); the overall consumption of computing resources for concurrent performance of one or more of the acts does not exceed the resources available (**paragraph 0053 and 0089**).

**Regarding Claim 8:** Dunbar et al. discloses one or more media as recited in claim 2, wherein one or more of acts are performed via dedicated hardware, where those acts are selected from decoding, transforming, buffering, and rendering (**paragraph 0106**).

**Regarding Claim 9 and 10:** Claims 9-10 are rejected for the same subject matter as claim 1.

**Regarding Claim 11:** Dunbar et al. discloses system for facilitating glitch-free realtime playback of a multimedia segment, the system comprising: a decoder configured to decode an encoded multimedia segment, the segment having a defined normal decode schedule which designates a normal rate for decoding the multimedia segment, the decoder being further configured to decode the encoded multimedia segment at a greater rate than the normal decode schedule (**paragraph 0089**); a buffer configured to store the decoded multimedia segments which the decoder has decoded at a greater rate than the normal decode schedule (**paragraph 0089**); a renderer configured to obtain decoded multimedia signals from the buffer and render the decoded multimedia signals at a normal rate for presentation (**paragraph 0004**).

**Regarding Claim 12:** Dunbar et al. discloses system as recited in claim 11 further comprising a transformer configured to receive the decoded multimedia segment and apply a transform on the segment (**paragraph 0071**).

**Regarding Claim 13:** Dunbar et al. discloses system as recited in claim 11, wherein the decoder determines whether to decode the encoded multimedia segment at a greater rate than the normal decode schedule when spare computing resources are otherwise available for doing so (**paragraph 0067**).

**Regarding Claim 14:** Dunbar et al. discloses a system as recited in claim 11, wherein the buffer is a dual-ported memory (**paragraph 0089**).

**Regarding Claim 15:** Claim 15 is rejected for the same subject matter as claim 6.

**Regarding Claim 16:** Dunbar et al. discloses a system as recited in claim 11, wherein decoder is embodied, at least in part, in a processor-readable memory (**paragraph 0070**).

**Regarding Claim 17:** Dunbar et al. discloses a system as recited in claim 11, wherein decoder is embodied, at least in part, in hardware (**paragraph 0106**).

**Regarding Claim 18:** Dunbar et al. discloses a system as recited in claim 12, wherein transformer is embodied, at least in part, in a processor-readable memory (**paragraph 0070**).

**Regarding Claim 19:** Dunbar et al. discloses a system as recited in claim 12, wherein transformer is embodied, at least in part, in hardware (**paragraph 0106**).

**Regarding Claim 20:** Dunbar et al. discloses a system as recited in claim 12, wherein a transform is selected from a group consisting of multimedia effects and multimedia transitions (**paragraph 0070**).

**Regarding Claims 21-27:** Claims 21-27 are rejected for the same subject matter as claim 11, 12, 3, 5, 6, 8 and 22 respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2621

/Marsha D. Banks-Harold/

Supervisory Patent Examiner, Art Unit 2621

/Daniel Tekle/

Examiner, Art Unit 2621